

**BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA**

In the Matter of:

Edrick T.,

Claimant,

Vs.

**EASTERN LOS ANGELES REGIONAL
CENTER,**

Service Agency.

OAH No. L2006080109

DECISION

This matter was heard by Humberto Flores, Administrative Law Judge with the Office of Administrative Hearings on September 20, 2006, in Alhambra, California.

Claimant did not appear at the hearing but was represented by her mother, Edith Y.

Margarita Duran, L.C.S.W., represented the Eastern Los Angeles County Regional Center (ELARC).

Evidence was received and the matter was submitted for decision. The Administrative Law Judge makes the following findings, legal conclusions and order.

ISSUE

Should ELARC fund Music Therapy Assessment and Treatment for claimant?

FACTUAL FINDINGS

1. Claimant is a four year-old boy who qualifies for regional center services based on a diagnosis of autism.

2. Claimant is developmentally delayed with deficits in communication and social interactions skills. Specifically, claimant displays temper tantrums and spits and screams at people when he doesn't get his way. His 2005 Individual Program Plan (IPP) notes that he is hyperactive and does not fear danger and will run into the street without concern for traffic. Claimant's August 2006 IPP states that claimant receives speech therapy, which is funded by his school. His latest IPP also states that claimant continues to display behavior problems, including temper tantrums and screaming when he doesn't get his way.

3. Claimant had been receiving behavior intervention services but funding was terminated in January 2006.

4. On July 10, 2006, Claimant's mother requested that ELARC fund music therapy for claimant.

5. On July 17, 2006, ELARC issued a Notice of Proposed Action denying the request for funding for music therapy because ELARC considers music therapy to be experimental; and that claimant should seek funding from his school district. ELARC also noted that the social skills training it currently funds for claimant addresses the same behavioral concerns that music therapy would address and attempts to achieve the same outcomes and goals.

6. Claimant's mother testified that claimant enjoys music, responds positively and exhibits more discipline when he hears music and when he tries to sing the lyrics. Music therapy might be an appropriate therapeutic modality for claimant, but there was insufficient evidence in this case to make this determination since claimant has not undergone a thorough assessment for this service. Further, claimant did not present expert testimony to support his request.¹

7. ELARC's contention that music therapy is experimental relies on a written opinion by Enrique Ramirez, Ph.D., dated August 14, 2006, which states that music therapy "is considered an experimental approach for the treatment of Autism and therefore, it is no (sic) recommended for funding by the Regional Center." (exhibit 20). This opinion is not given any weight because it is merely a conclusion with no supporting facts, studies or other documentation. Further, Dr. Ramirez did not testify at the hearing to explain his opinion and answer question on cross examination. Therefore, based on the evidence presented in this hearing, ELARC's contention that music therapy is experimental is rejected.

8. Claimant's mother has been informed by ELARC that claimant music therapy is considered a "related service" under the Individuals with Disabilities Act (IDEA), and that claimant should request music therapy from his local school district. Claimant's mother had not made said request to the school district as of the time of the hearing.

¹ Claimant presented letters from Liliana Sloninski, M.D., and Charles E. Niessen, M.D., to support his request for music therapy. However, the undersigned cannot determine whether these physicians have the expertise to make assessments for music therapy, or whether actual assessments had been performed by these physicians.

DISCUSSION

Welfare and Institutions Code section 4512, subdivision (b) of the Lanterman Developmental Disabilities Services Act states in part:

“‘Services and supports for person with developmental disabilities’ means specialized service and supports or special adaptations of generic services and support directed toward the alleviation of a developmental disability or toward the social, personal, physical, or economic habilitation or rehabilitation of an individual with a developmental disability, or toward the achievement and maintenance of independent, productive, normal lives.”

The services to be provided to any consumer must be individually suited to meet the unique needs of the individual client in question. Within the bounds of the law each client’s particular needs must be met, taking into account the needs and preferences of the individual and the family. This requires an active participation by the consumer and her legal guardians. (See Welf. & Inst. Code §§ 4646, subds. (a) & (b), and 4648, subd. (a) (2).)

Welfare and Institutions code section 4648, subdivision (8) provides, “Regional Center funds shall not be used to supplant the budget of any agency which has a legal responsibility to serve all members of the general public and is receiving public funds for providing those services.”

As noted in Factual Finding 8, claimant’s mother has not made a request to claimant’s school district to provide music therapy for claimant.

LEGAL CONCLUSIONS

1. Cause exists to affirm the decision of the Eastern Los Angeles Regional Center denying funding for claimant for music therapy. This decision is based on the facts set forth in findings 1 through 8, the application of Welfare and Institutions Code sections 4501, 4512, 4646 and 4648 to the facts of this case, and the Discussion section of this Decision.

2. Music therapy might be beneficial for claimant. However, there is insufficient evidence to support claimant’s request for this service as set forth in Factual Finding 6. Further, claimant has not requested the local school district to provide this service. Should claimant make this request to his school district, and if the school district denies said request, claimant would not be precluded from submitting another request to ELARC to fund music therapy.

ORDER

The decision of the Eastern Los Angeles Regional Center denying funding for music therapy for claimant is affirmed. The appeal by Claimant Edrick T. is denied.

DATED: October 11, 2006

HUMBERTO FLORES
Administrative Law Judge
Office of Administrative Hearings

NOTICE

This is the final administrative decision. Both parties are bound by this decision. Either party may appeal this decision to a court of competent jurisdiction within 90 days.